

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Virginia

UNITED STATES DEBT
RECOVERY LLC,

Appellant,

v.

Civil Action No. 3:10cv204

CIRCUIT CITY STORES, INC.,
et al.,

Appellees.

ORDER

Having reviewed and considered Appellant United States Debt Recovery LLC's MOTION FOR LEAVE TO APPEAL FROM INTERLOCUTORY "ORDER ON DEBTORS' FIFTY-FIRST AND FIFTY-SECOND OMNIBUS OBJECTIONS" AND RELATED "MEMORANDUM OPINION" ENTERED JANUARY 6, 2010, AS DOCKET NUMBER 6228 (Docket No. 1), and finding that:

- (1) the appeal involves a controlling question of law, that question being the applicability of 11 U.S.C. § 502(d) to administrative expense claims made pursuant to § 503(b)(9), that is essential to a determination of whether the appellant can recover on its § 503(b)(9) claims;

(2) the question presents substantial ground for a difference of opinion, that difference of opinion being explicitly identified in the Bankruptcy Court's Memorandum Opinion of January 6, 2010, discussing two distinct lines of authority on the question that come to irreconcilably different conclusions; and

(3) immediate appeal would materially advance the termination of the litigation, because it would allow the court to quickly, efficiently, and equitably determine the rights and remedies of the parties to the underlying bankruptcy petition;

it is hereby ORDERED that the Appellant's motion for leave is granted. The issues are adequately presented in the briefs and oral argument would not materially aid the decisional process.

It is further ORDERED that, for the reasons set forth on the record during the conference call of April 22, 2010, the parties shall file briefs on the merits of the appeal as follows: the Appellant shall file its opening brief no later than May 6, 2010; the Appellees shall file their

consolidated response brief by May 20, 2010; and the Appellant shall file its reply by June 3, 2010.

It is further ORDERED that a status conference, conducted via conference call to be arranged by Appellee Circuit City, shall be held on April 29, 2010, at 11:00 A.M.

It is so ORDERED.

/s/ *REP*

Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: April 23, 2010